

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Firm ID xxxxx1938
Return Date: 1/14/13 @9:30am

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In re

Monica Osorio-Sarosi

Chapter 7
Case 12-76134-reg

Debtors.
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NOTICE OF MOTION FOR ORDER TO AVOID JUDICIAL LIENS

S I R S/M A D A M:

PLEASE TAKE NOTICE, that upon the annexed Affidavit dated November 22, 2012 of Monica Osorio-Sarosi, by her attorneys, Macco & Stern, LLP, the undersigned will move this Court before the Honorable Robert E. Grossman, Bankruptcy Judge, on the 14th day of January, 2013 at 9:30 a.m. at the United States Bankruptcy Court, Long Island Federal Courthouse, 860 Federal Plaza, Central Islip, new York 11721, or as soon thereafter as counsel can be heard, for an Order pursuant to Section 522(f), avoiding the judicial lien of TD Auto Finance LLC, and for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the proposed Order must be in writing and filed with the Clerk of the Court, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York 11722 (a)(i) through the Bankruptcy Court's electronic filing system (in accordance with General Order M-242), which may be assessed (with password which is available by contacting the Bankruptcy Court's technical assistance at 631-712-6200, Monday through Friday, 8:30 a.m. to 5:00 p.m.) through the Internet at the Bankruptcy Court's website: www.nyeb.uscourts.gov using Netscape

Navigator software version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in an envelope with the case name, case number, type and title of document, document number of the document to which the objection refers, and the file name on the outside of the envelope; or (c) if a party is unable to file electronically or use PDF format, such party shall submit the objection on a diskette in either Word, WordPerfect, or DOS text (ASC II) format. An objection filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b) or (c), as set forth in this paragraph, shall be hand-delivered directly to the Chambers of the Honorable Robert E. Grossman, and served so as to be received by Macco & Stern, LLP, 135 Pinelawn Road, Suite 120 South, Melville, New York 11747, no later than **January 7, 2013**.

PLEASE TAKE FURTHER NOTICE, that answering papers if any, shall be filed with this Court, and served upon the undersigned within ~~three~~ (3) days of the return date of this motion.

Dated: Melville, New York
November 28, 2012

Yours, etc.

Michael J. Macco
Macco & Stern, LLP
135 Pinelawn Road, Suite 120 South
Melville, New York 11747
(631)549-7900

To: *Office United States Trustee*
Allan B. Mendelsohn, Esq.
TD Auto Finance LLC
Rubin & Rothman LLC

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

Monica Osorio-Sarosi

Case No.: 12-76134-reg

Debtor.
-----X

**AFFIDAVIT IN SUPPORT
OF MOTION**

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:-

Michael J. Macco, being duly sworn, deposes and says:

1. That I am the attorney for Monica Osorio-Sarosi who filed a petition for relief under Chapter 7 of the Bankruptcy Code on October 11, 2012, and as such am completely familiar with the facts and circumstances involved herein.

2. The debtors listed in their Schedule F the liabilities due TD Auto Finance LLC. Although the debtor was aware that this creditor commenced legal action, at the time of filing they did not have sufficient income to save their home and expected to live in it until foreclosure. However, the Bank is considering a modification which requires the removal of the judgments from title.

3. The debtor owns a residence, as tenants by the entirety, located at 7 Halter Lane, Levittown, New York 11756. This property has a fair market value as of the date of filing of \$277,421.00. Annexed hereto as Exhibit A is a copy of the appraisal.

5. This property is subject to a first mortgage with GMAC Mortgage in the amount of \$345,222.67 and a second mortgage with The Bank of New York Mellon Trust Company, NA in the amount of 58,079.14. This liability is set forth in the debtor's Bankruptcy Petition in Schedule D.

6. Pursuant to 11 U.S.C. Section 522(d)1 the debtor is entitled to a Homestead Exemption up to \$21,625.00.

7. This property is subject to certain judicial liens as follows: TD Auto Finance LLC recorded March 12, 2012 in the sum of \$3,431.94. This judgment is listed in the debtor's Bankruptcy Petition Schedule F.

8. 11 U.S.C. Section 522(f)1 states in pertinent part as follows: "...the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled...if such lien is (a) a judicial lien..."

9. The aforementioned liens impair the debtor's exemption to which the debtor would be entitled under CPLR Section 5206.

10. The aforementioned judicial liens are not of a kind that is specified in Section 523(a)5.

11. The math calculations as to the impairment of my client's exemption is as follows:

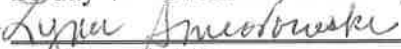
Fair market value of residence	277,421.00
Less first mortgage of GMAC Mortgage	345,222.67
Less second mortgage of The Bank of New York	58,079.14
Remaining Equity	-0-
Less Homestead Exemption	100.00
Net Equity for Judgment Creditors	-0-

WHEREFORE, it is respectfully requested that the aforementioned judicial lien(s) be avoided and that the Clerk of the Court remove said judgment as of record upon the filing of a certified copy of the Bankruptcy Court Order, together with such other and further relief as this Court deems just and proper.



Michael J. Macco

Sworn to before me this
28 day of November, 2012.



Notary Public

Lynn Smiarowski
Notary Public, State of New York
No. 01SM4655592
Qualified in Suffolk County
Commission Expires February 28, 2014

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

Monica Osorio-Sarosi

Case No.: 12-76134-reg

Debtor.

AFFIDAVIT

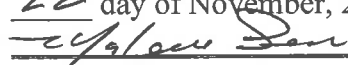
-----X
STATE OF NEW YORK)
COUNTY OF SUFFOLK)

Monica Osorio-Sarosi, being duly sworn, deposes and says:

1. I am the Chapter 7 debtor.
2. I have reviewed all the information and representations made by my counsel on this Application to avoid the Judicial Lien of the judgment creditors because this judicial lien impairs my exemption.
3. The information contained in the Application of my counsel is true and accurate to the best of my knowledge, information and belief.



Monica Osorio-Sarosi

Sworn to before me this
22 day of November, 2012


Notary Public

MARLENE N SEARA
COMMISSIONER OF DEEDS
CITY OF NEW YORK - NO. 4-3634
CERTIFICATE FIELD IN QUEENS COUNTY
COMMISSION EXPIRES APRIL 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

Monica Osorio-Sarosi

Case No. 12-76134-reg

ORDER
-----X

Monica Osorio-Sarosi, (Debtor) by her attorneys, Macco & Stern, LLP, having moved this Court pursuant to a Notice of Motion dated November , 2012 seeking an Order pursuant to 11 USC §522(f), avoiding the Judicial Liens filed against the debtors' real property located at 7 Halter Lane, Levittown, New York 11756 by TD Auto Finance LLC and no opposition having been filed with the Court and the Court having found that the judicial liens above mentioned impair the debtors Homestead Exemption and sufficient cause having been shown, it is

ORDERED, that the judicial lien of TD Auto Finance LLC recorded March 12, 2012 in the sum of \$3,3431.94 is hereby vacated, expunged and avoided, and it is further

ORDERED, that the County Clerk of the Suffolk Court in which the Debtor resides be, and is hereby directed, to index and record a certified copy of this Order as an instrument vacating, expunging, and avoiding the aforementioned judicial liens upon the debtor obtaining a Chapter 7 discharge.

CR409R NASSAU COUNTY CLERK'S OFFICE COURT DOCUMENT ABSTRACT
Abstract for Control #: 03-12-2012 2172
Court Documents Index from Jul 1, 1992 thru Nov 7, 2012 #355 @ 10:00

First available data screen is displayed

Ctl #: 2172 Recorded: 03-12-2012 @ 2:13:06p Ent date: 03-01-2012 Vfy: Y
Ref#: JT JT12007131 Sign dte: 02-24-2012 Chg: Y

Pages in document: Unable to determine (Image available)
Grp:001 Type: J02 TRANSCRIPT OF JUDGMENT Jdg amt: 3,431.94
Damages: 3,180.95 Ct costs: 250.99 Interest: .00
Mstx: 1ST NASSAU
Ref to: 11CV045554/NA

Plaintif:TD AUTO FINANCE LLC (FKA)
4600 TOUCHTON RD BLDG 200 STE 400
JACKSONVILLE, FL 32246

Addl abstract information may be available, use "M" option

Key one of the values shown below & press ENTER, or use a Function key

P=Previously displayed entries M=More entries, if available

R=Return to select a new item

PvDoc:F8 Abs/NxDoc:F9 Name:F1 Chgs:F10 MsNm:F17 CtNm:F15.... F20=View M
There is no previous information for this document F2/21=Print

522(f)

CR409K NASSAU COUNTY CLERK'S OFFICE

COURT DOCUMENT ABSTRACT

Abstract for Control #: 03-12-2012 2172

Court Documents Index from Jul 1, 1992 thru Nov 7, 2012 #355 @ 10:00

First available data screen is displayed

Plaintif: CHRYSLER FINANCIAL SERVICES AMERICAS LLC
4600 TOUCHTON RD BLDG 200 STE 400
JACKSONVILLE, FL 32246

Defendnt: SAROSI MONICA

7 HALTER LN
LEVITTOWN, NY 11756 3901

Defendnt: SAROSI MICHAEL

7 HALTER LN
LEVITTOWN, NY 11756 3901

Atty: RUBIN & ROTHMAN LLC
1787 VETERANS HIGHWAY STE 32 P O BOX 9003
ISLANDIA, NY 11749

Addl abstract information may be available, use "M" option.

Key one of the values shown below & press ENTER, or use a Function key

P=Previously displayed entries M=More entries, if available

R=Return to select a new item

PvDoc:F8 Abs/NxDoc:F9 Name:F1 Chgs:F10 MsNm:F17 CtNm:F15.... F20=View M

There is no previous information for this document. F2/21=Print

CR409R NASSAU COUNTY CLERK'S OFFICE

COURT DOCUMENT ABSTRACT

Abstract for Control #: 03-12-2012 2172

Court Documents Index from Jul 1, 1992 thru Nov 7, 2012 #355 @ 10:00

First available data screen is displayed

Notes: 10-18-12 PARTIALLY SATISFIED TO THE AMT OF \$99.79

Addl abstract information may be available, use "M" option

Key one of the values shown below & press ENTER, or use a Function key

P=Previously displayed entries M=More entries, if available

R=Return to select a new item

PvDoc:F8 Abs/NxDoc:F9 Name:F1 Chgs:F10 MsNm:F17 CtNm:F15.... F20=View M

There is no previous information for this document F2/21=Print

7 Halter Ln

Levittown, NY 11756

Not for Sale

Zestimate \$293,384

Rent Zestimate \$2,471/mo

Est. Mortgage

See current rates on Zillow (/mortgage-rates?loantype=Refinance&rid=43)

A Bad Credit Score is 598, See Yours for \$0

Beds: --

Baths: 2

Sqft: 1,345

Lot: 5,999 sq ft / 0.14 acres

Type: Single Family

Year built: 1948

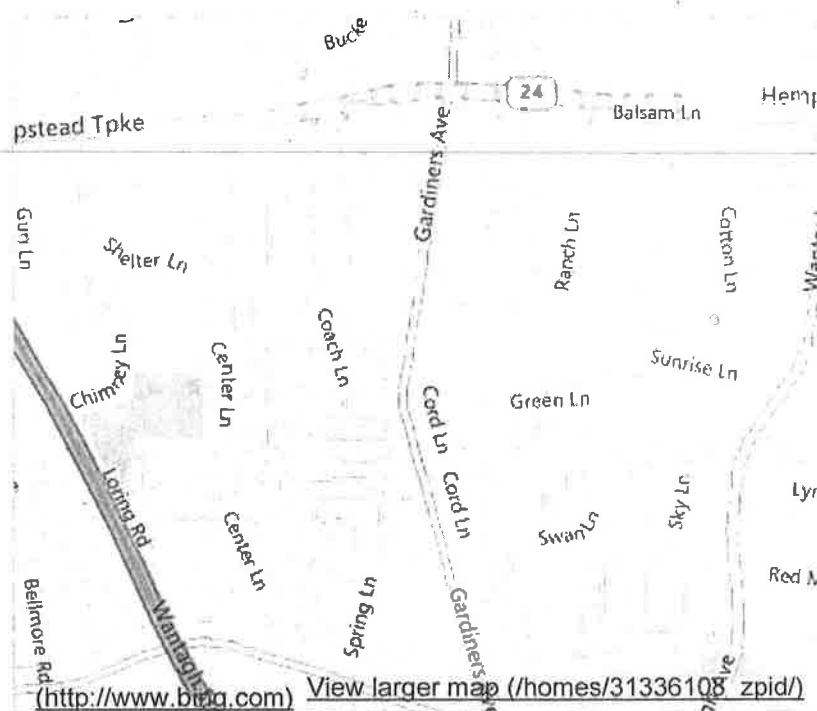
Parking: --

Cooling: Central

Heating:

Fireplace: --

Map Bird's Eye Street View



More facts

Description from Zillow: This is a 1345 square foot, 2.0 bathroom, single family home. It is located at 7 Halter Ln Levittown, New York.

Correct home facts (/editing/EditHomeFacts.htm?cid=1352921617263§ion=HomeFacts&zpid=31336108)

Save this home (/myzillow/UpdateFavorites.htm?zpid=31336108&operation=add&ajax=false)

Get updates

Zestimates

Email more ▼

	Value	Range	30-day change	\$/sqft	Last updated
Zestimate	\$293,384	\$273K – \$314K	+\$11,679	\$218	11/13/2012
Rent Zestimate	\$2,471/mo	\$1.7K – \$3K/mo	+\$50	\$1.84	11/12/2012
Owner Estimate	Post your own estimate (http://www.zillow.com/claiming/ClaimProperty.htm?cid=1352921617268&zpid=31336108)				

Zestimate Rent Zestimate more

1 year 5 years 10 years

This home --

11756 --

Levittown --

Account Number	7427835004
Statement Date	November 19, 2012
Maturity Date	May 01, 2036
Interest Rate	4.25000
Interest Paid Year-to-Date	\$0.00
Taxes Paid Year-to-Date	\$9,187.82
Escrow Balance	\$15,394.29
Principal Balance(PB)*	\$345,222.67

Principal and Interest	\$1,873.71
Subsidy/Buydown	\$0.00
Escrow	\$842.81
Unpaid Amount	\$46,181.19
Late Charges	\$0.00
Other	\$2,473.64
Total Unpaid Amount	\$51,371.35
Payment Date	July 01, 2011

**For questions on the servicing of your account,
call 1-800-766-4622.**

Account Activity Since Last Statement

[illegible]

***This is your Principal Balance only, not the amount required to pay the loan in full. For payoff figures and mailing instructions, call the Customer Care number above or you may obtain necessary payoff figures through our automated system (24 hours a day, 7 days a week). See back for automatic payment sign-up information and other payment options.**

Important News

Our records indicate that you have filed for bankruptcy protection. This statement is being provided for your convenience. If you choose to continue to remit payments, please include the coupon below with any payment you send. If you do not want us to send you mortgage account statements in the future, please contact us at the number listed above.

See Reverse Side For Important Information And State Specific Disclosures

Mortgage Payment Coupon

Account Number	Payment Date	Payment Amount	Late Fee	Payment Amount With Late Fee	Unpaid Amount
7427835004 MONICA SAROSI	07/01/11	\$2,716.52		\$2,716.52	\$51,371.35

This statement is being furnished for informational purposes only.

GMAC
Mortgage

Please assist GMAC Mortgage in applying your payment	
Full Payment(s)	\$ _____
ADDITIONAL Principal	\$ _____
ADDITIONAL Escrow	\$ _____
Late Charge	\$ _____
Other Fees (please specify)	\$ _____
Total Amount Enclosed	\$ _____

Sign here to receive information on
monthly ACH. See back for details.

GMAC MORTGAGE
PO BOX 9001719
LOUISVILLE KY 40290-1719



UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

Monica Osorio-Sarosi

Case No.: 12-76134-reg

Debtors.

AFFIDAVIT OF SERVICE

-----X
STATE OF NEW YORK)
COUNTY OF SUFFOLK)s:-

Lynn Smiarowski being duly sworn deposes that deponent is not a party to the above-captioned action, is over the age of 18 years and resides at Huntington, New York.

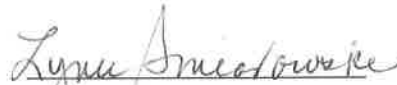
On November 28, 2012 deponent served the within NOTICE OF MOTION WITH EXHIBITS upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of the same, enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

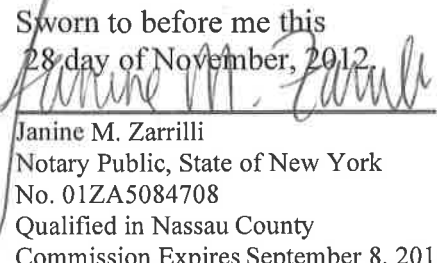
Office of the U.S. Trustee
Long Island Federal Courthouse
560 Federal Plaza
Central Islip, NY 11722

Allan B. Mendelsohn, LLP
38 New Street
Huntington, NY 11743

TD Auto Finance LLC
4600 Touchton Road, Building 200
Jacksonville, FL 32246

TD Auto Finance LLC
c/o Rubin & Rothman LLC
1787 Veterans Highway
Islandia, NY 11749


Lynn Smiarowski

Sworn to before me this
28 day of November, 2012

Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires September 8, 2013